Order of Affirmance of Appellate Division 667

At a Term of the Appellate Division of the Supreme Court of the State of New York held in and for the Second Judicial Department at the Borough of Brooklyn, on the 7th day of July, 1953.

Present:

Hon. Gerald Nolan,
Presiding Justice, 668
Hon. Frank F. Adel,
" John MacCrate,
" Frederick G. Schmidt,
" George J. Beldock,
Justices.

The People of the State of New York,
Respondent,

—v.—

Michael J. Regan,
Appellant. 669

Order on Appeal from Judgment of Conviction

The above named Michael J. Regan, the defendant in this action having appealed to the Appellate Division of the Supreme Court from a Judgment of the County Court of the County of Kings, rendered on the 9th day of April, 1953, convicting the defendant of the crime of criminal contempt of court, and sentencing him to the New York City Penitentiary for the term of one year, and

670 *Order of Affirmance of Appellate Division*

from each and every intermediary order, herein, and the said appeal having been argued by Mr. Julius A. Hellenbrand of Counsel for the appellant and argued by Mr. Aaron E. Koota, Assistant District Attorney, of Counsel for the respondent, and due deliberation having been had thereon; and upon the opinion and decision slip of the court herein, heretofore filed:

It is Ordered and Adjudged that the judgment of conviction so appealed from be and the same
671 hereby is unanimously affirmed.

Enter:

John J. Callahan,
Clerk.

672

Judgment of the County Court 673

At a Term of the County Court, Kings County, held at the Courthouse thereof No. 120 Schermerhorn Street, Borough of Brooklyn, City of New York, on the 21st day of July, 1953.

Present:

HON. SAMUEL S. LEIBOWITZ,
County Judge. 674

PEOPLE OF THE STATE OF NEW YORK,

Plaintiffs,

—against—

MICHAEL J. REGAN,

Defendant.

A verdict of guilty of the crime of criminal contempt of court having been rendered against the 675
above named defendant on the 5th day of March, 1953, and thereafter judgment having been duly entered on the 9th day of April, 1953, sentencing him to be imprisoned in the New York City Penitentiary for a term of one year and said defendant thereafter and on the 16th day of April, 1953 having appealed from said judgment of conviction to the Supreme Court, Appellate Division, Second Judicial Department, and the said appeal having duly come on to be heard and the said Appellate Division having after due deliberation affirmed the judgment of conviction so

676 *Judgment of the County Court*

appealed from as appears by the remittitur dated July 7, 1953 and filed in the office of the Clerk of said Court on July 8, 1953.

Now, on reading and filing a certified copy of the said remittitur dated July 7, 1953, and on motion of Miles F. McDonald, District Attorney of the County of Kings, it is hereby

ORDERED that the judgment of the Supreme Court of the Appellate Division, Second Judicial
677 Department be and the same hereby is made the judgment of this Court.

ENTER

SAMUEL S. LEIBOWITZ
J. C. C.

Granted
Jul 21 1953
FRANCIS J. SINNOTT
Clerk

678

679

Certificate Granting Leave to Appeal to the Court of Appeals

COURT OF APPEALS
OF THE STATE OF NEW YORK

THE PEOPLE OF THE STATE OF NEW YORK,

Respondents,

—against—

680

MICHAEL J. REGAN,

Defendant-Appellant.

I, CHARLES W. FROESSEL, Judge of the Court of Appeals, do hereby certify that in the record and proceedings herein, questions of law are involved which ought to be reviewed by the Court of Appeals.

Bail as previously provided is fixed pending appeal to the Court of Appeals in the sum of $5,000.00. 681

Dated: Jamaica, New York, N. Y.,
July 11, 1953.

CHARLES W. FROESSEL
Judge of the Court of Appeals

682 **Notice of Appeal to the Court of Appeals**

COUNTY COURT

County of Kings

Indictment No. 249/53

The People of the State of New York,

Respondents,

—against—

683

Michael J. Regan,

Defendant-Appellant.

Sirs:

Please take notice that pursuant to permission granted by order of Hon. Charles W. Froessel, Associate Judge of the Court of Appeals, made the 11th day of July, 1953, the defendant above named hereby appeals to the Court of Appeals from the order and judgment of the Appellate Division, Second Judicial Department, made and entered on the 7th day of July, 1953, unanimously affirming the judgment of the County Court of Kings County, entered on the 5th day of March, 1953, convicting the defendant of the crime of criminal contempt of court and from each and every part of said order and judgment.

684

Dated: July 15, 1953

Notice of Appeal to the Court of Appeals 685

Yours, etc.

JULIUS A. HELLENBRAND
Attorney for Defendant-Appellant
Office & P. O. Address
161-19 Jamaica Avenue
Jamaica 32, New York

To:

HON. MILES F. McDONALD
District Attorney of Kings County
Municipal Building
Brooklyn, New York 686

CLERK OF THE COUNTY COURT
OF KINGS COUNTY
120 Schermerhorn Street
Brooklyn, New York

687

688

Affidavit of No Opinion by the Appellate Division

STATE OF NEW YORK, }
COUNTY OF QUEENS, } ss.:

JULIUS A. HELLENBRAND, being duly sworn, deposes and says:

I am the attorney for the appellant in this action, and I am familiar with all the proceedings herein.

689

That no opinion or memorandum was rendered by the Appellate Division in making the order of affirmance.

JULIUS A. HELLENBRAND

Sworn to before me this
26th day of August, 1953.

THOMAS J. MACKELL
Notary Public, State of New York
Commission expires March 31, 1954

690

Clerk's Certificate

691

I, Francis J. Sinnott, Clerk of the County Court, Kings County, City and State of New York, do hereby certify that the foregoing record contains the Order of Affirmance of the Appellate Division, Judgment of the County Court, Certificate Granting Leave to Appeal to the Court of Appeals, Notice of Appeal to the Court of Appeals and the Record on Appeal to the Appellate Division, Second Department in the case of the People of the State of New York against Michael J. Regan, now on file in the 692
Clerk's office of said Court, and the same has been compared by me with the originals and are correct transcripts therefrom and of the whole of such originals.

Given under my hand and seal this day of August, 1953.

Francis J. Sinnott,
Clerk of Court.

(Seal)

693

[fol. 232] In the Court of Appeals of the State of New York

No. 324

[Repeat Title]

Remittitur—Filed January 22nd, 1954

State of New York, ss:

Pleas in the Court of Appeals, held at Court of Appeals Hall, in the City of Albany, on the 22nd day of January in the year of our Lord one thousand nine hundred and fifty-four, before the Judges of said Court.

Witness, The Hon. Edmund H. Lewis, Chief Judge, Presiding. Raymond J. Cannon, Clerk. (Seal.)

Remittitur January 22, 1954.

[fol. 233] The People &c., Respondent,

vs.

Michael J. Regan, Appellant

Be it remembered, that on the 14th day of November in the year of our Lord one thousand nine hundred and fifty-three, Michael J. Regan, the appellant in this cause, came hereunto the Court of Appeals, by Julius A. Hellenbrand, his attorney, and filed in the said Court a Notice of Appeal and return thereto from the judgment of the Appellate Division of the Supreme Court in and for the Second Judicial Department. And The People &c., the respondent- in said cause, afterwards appeared in said Court of Appeals by Miles F. McDonald, District Attorney.

Which said Notice of Appeal and the return thereto, filed as aforesaid, are hereunto annexed.

[fol. 234] Whereupon, the said Court of Appeals having heard this cause argued by Mr. Julius A. Hellenbrand, of counsel for the appellant, and by Mr. Aaron E. Koota, of counsel for the respondent-, and after due deliberation had thereon, did order and adjudge that the judgment of the Appellate Division of the Supreme Court appealed from herein be and the same hereby is affirmed. And thereafter

a motion for reargument and for amendment of the remittitur having been made on the part of the appellant herein and the motion as to reargument having been denied and the motion as to amendment of the remittitur having been granted the said remittitur is amended by adding thereto the following: Upon this appeal there was presented and passed upon the following question: whether defendant had been deprived of liberty without due process of law and whether there had been an abridgement of defendant's privileges and immunities as a citizen of the United States under the Fourteenth Amendment of the Constitution of the United States. This Court held that there was no denial of any constitutional right of the defendant.

And it was also further ordered, that the record aforesaid, and the proceedings in this Court, be remitted to the County Court, Kings County, there to be proceeded upon according to law.

[fol. 235] Therefore, it is considered that the said judgment be affirmed, &c., as aforesaid.

And hereupon, as well the Notice of Appeal and return thereto aforesaid as the judgment of the Court of Appeals aforesaid, by it given in the premises, are by the said Court of Appeals remitted into the County Court, Kings County, before the Judges thereof, according to the form of statute in such case made and provided, to be enforced according to law, and which record now remains in the said County Court, before the Judges thereof, &c.

Raymond J. Cannon, Clerk of the Court of Appeals of the State of New York.

Court of Appeals, Clerk's Office, Albany, January 22, 1954.

[File endorsement omitted.]

[fol. 236] State of New York,

In Court of Appeals.

At a Court of Appeals for the State of New York, held at Court of Appeals Hall in the City of Albany on the twelfth day of March A. D. 1954.

Present, Hon. Edmund H. Lewis, Chief Judge, Presiding.

Mo. No. 90

The People &c., Respondent

vs.

Michael V. Regan, Appellant

A motion for reargument and to amend the remittitur in the above cause having been heretofore made upon the part of the appellant herein, papers having been submitted thereon and due deliberation having been thereupon had, it is

Ordered, that the said motion, insofar as it seeks reargument, be and the same hereby is denied, and it is

Further ordered, that the said motion, insofar as it seeks to amend the remittitur, be and the same hereby is granted. Return of remittitur requested and, when returned, it will be amended to read as follows:

> Judgment affirmed. Upon this appeal there was presented and passed rpon the following question: whether defendant had been deprived of liberty without due process of law and whether there had been an abridgment of defendant's privileges and immunities as a citizen of the United States under the Fourteenth Amendment of the Constitution of the United States. This Court held that there was no denial of any constitutional right of the defendant.

And the County Court, Kings County, is hereby requested to direct its Clerk to return said remittitur to this Court for amendment accordingly.

A Copy.

Raymond J. Cannon, Clerk.

SUPREME COURT OF THE UNITED STATES

No. 730 ---, October Term, 1953

Michael J. Regan,

Petitioner,

vs.

The People of the State of New York

ORDER ALLOWING CERTIORARI. Filed June 7, 1954.

The petition herein for a writ of certiorari to the Court of Appeals of the State of New York is granted. And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.